

MORRISON | FOERSTER

250 WEST 55TH STREET
NEW YORK, NY 10019-9601

TELEPHONE: 212.468.8000
FACSIMILE: 212.468.7900

WWW.MOFO.COM

MORRISON & FOERSTER LLP
BEIJING, BERLIN, BOSTON,
BRUSSELS, DENVER, HONG KONG,
LONDON, LOS ANGELES, NEW YORK,
NORTHERN VIRGINIA, PALO ALTO,
SAN DIEGO, SAN FRANCISCO, SHANGHAI,
SINGAPORE, TOKYO, WASHINGTON, D.C.

January 15, 2021

Writer's Direct Contact
+1 (212) 468.8203
JLevitt@mofo.com

Via ECF

Hon. Nina Gershon
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Alcon Vision, LLC v. Lens.com, Inc.*; Case No. 1:18-cv-00407-NG-RLM

Dear Judge Gershon,

We represent plaintiff Alcon Vision, LLC in the above-referenced case and write to clarify the status with respect Alcon's pending Motion to Dismiss Lens.com's Second Amended Counterclaims and to Strike Five Affirmative Defenses, fully briefed and filed on April 7, 2020. (ECF No. 232.)

On August 5, 2020, Lens.com dismissed five of its eight Counterclaims¹ (ECF No. 258), rendering Alcon's Motion to Dismiss moot with respect to those counterclaims. But three of Lens.com's Counterclaims remain (Eighth Counterclaim for False Advertising and Deceptive Trade Practices under GBL §§ 349 and 350, Ninth Counterclaim for False or Misleading Description or Representation of Fact under 15 U.S.C. § 1125, and Tenth Counterclaim for Declaratory Judgment), as do the five affirmative defenses that Alcon moved to strike.

The parties recently completed fact discovery, and Magistrate Judge Mann granted the parties' joint case schedule, under which expert discovery will commence after rulings on Alcon's pending Motion to Dismiss and Lens.com's pending motions to compel. (ECF No. 310 and November 13, 2020 Order Granting ECF No. 310.)

Should the Court require any further information, Alcon would be happy to provide it.

¹ Lens.com had brought ten counterclaims, three of which were transferred to a Multi District Litigation pending in the Middle District of Florida.

MORRISON | FOERSTER

January 15, 2021
Page Two

Respectfully submitted,

s/ Jamie A. Levitt
Jamie A. Levitt

cc: All Counsel of Record (via ECF)